

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

IN THE MATTER OF:	)	Docket SRPD 05/06 SCC-4359
	)	
	)	
Rhodia, Inc. 20720 South Wilmington Avenue Carson, California 90810 EPA ID No CAT 000611202 Owner/Operator	)	ADMINISTRATIVE SETTLEMENT AGREEMENT
	)	
	)	
Respondent.	)	Health and Safety Code Sections 25187 and 25200.14
	)	

INTRODUCTION

The Department of Toxic Substances Control (DTSC) and Rhodia, Inc. (Respondent) enter into this Administrative Settlement Agreement and agree as follows:

1.1 Jurisdiction exists pursuant to Health and Safety Code section 25187 and 25200.14, which authorize DTSC to issue an order to require corrective action when DTSC determines that there is or may be a release of hazardous waste or hazardous waste constituents into the environment from a hazardous waste facility.

1.2 The parties enter into this Administrative Settlement Agreement to avoid the expense of litigation, to resolve and settle, consistent with Cooper Industries, Inc. v. Aviall Services, Inc., 543 U.S. 157, 584 (2004) and subsequent decisions, Respondent's liability to the State of California under applicable provisions of state and federal law, including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. sections 9601 et seq., the issues addressed by this Administrative Settlement Agreement, and to carry out promptly the work described in this Administrative Settlement Agreement (the Work), and the payment of DTSC's oversight costs associated with the Work.

1.3 Respondent is the owner and/or operator of a hazardous waste facility located at 20720 South Wilmington Avenue, Carson, CA (Facility).

1.4 Respondent engages in the management of hazardous waste pursuant to a Conditional Authorization issued by DTSC on December 10, 1993.

1.5 DTSC has elected to proceed with clean up of the Facility under its hazardous waste program. DTSC is authorized to implement the California hazardous waste program in lieu of the United States Environmental Protection Agency (EPA) Resource Conservation and Recovery Act (RCRA) program. EPA listed the Facility on its CERCLIS database. Pursuant to DTSC's cooperative agreement with EPA and in response to EPA's request, DTSC performed a site screening of the Facility for purposes of the CERCLIS database. EPA approved of DTSC's site screening analysis on June 6, 2007. Pursuant to EPA policy, clean up of sites under RCRA or CERCLA are to be equivalent.

1.6 The terms used in this Administrative Settlement Agreement are as defined in California Code of Regulations, title 22, section 66260.10, except as otherwise provided.

1.7 Respondent agrees to implement the DTSC-approved workplans and to undertake the actions required by the terms and conditions of this Administrative Settlement Agreement, including any portions of this Administrative Settlement Agreement incorporated by reference.

1.8 Respondent waives any right to request a hearing on the issuance of this Administrative Settlement Agreement pursuant to Health and Safety Code section 25187.

## FACILITY BACKGROUND

2.1 There have been various owners and operators of the Facility over time. In 1987, Rhone-Poulenc Inc. acquired the Facility. Rhodia, Inc. was formed in 1998, when it acquired certain chemical assets and liabilities of Rhone-Poulenc Inc., including the Facility.

2.2 Since the late 1920s, the Facility has continuously operated as a sulfuric acid regeneration plant. The Facility's primary customers are Southern California refineries which use regenerated sulfuric acid in their production of gasoline.

2.3 The Facility, which is approximately 90% paved, is located in an industrial and commercial area. Based on EPA, State Water Resources Control Board, and Regional Water Quality Control Board, Los Angeles Region (Regional Board) records, there have been numerous releases to the environment from other industrial and commercial facilities in the vicinity of the Facility.

2.4 The nearest residential neighborhoods are located one-quarter mile northwest of the Facility and one-half mile southeast and southwest of the Facility (Draft Preliminary Assessment, March 19, 1986). There are no public drinking water wells within 1.0 mile of the Facility. (Geraghty & Miller Inc., 1995).

2.5 There are multiple groundwater bearing zones underlying the Facility and the surrounding area which are separated by low permeability confining layers. (Geraghty & Miller, Inc., 1995). A perched zone of limited areal extent is found at

approximately 15-25 feet below ground surface (bgs). (Geraghty & Miller Inc., 1995). A semi-confined aquifer is found at approximately 35-50 feet bgs. (Geraghty & Miller Inc., 1995). The Gage Aquifer starts at approximately 50 feet bgs. (Geraghty & Miller Inc., 1995). The Silverado Aquifer, which starts at approximately 500 feet bgs, is the only drinking water aquifer in the area. (Geraghty & Miller Inc., 1995).

2.6 The Dominguez Channel is located approximately 1.25 miles from the Facility. (Ecology and Environment, 1991). The Facility is located adjacent to County Project 1202 storm drain, and historically the Facility discharged to this storm drain at a point that is approximately 1.3 miles from the storm drain's discharge to the Dominguez Channel. (Ecology and Environment, 1991). Based on sediment sampling conducted in 1991, pesticides detected in the storm drain both upstream and downstream of the Facility were one to two orders of magnitude lower than the pesticides detected in the Dominguez Channel both upstream and downstream of the confluence of the Dominguez Channel and the County Project 1202 storm drain. (Ecology and Environment, 1991).

2.7 Commencing in the early 1990s, Respondent began site investigation work at the Facility under the oversight of the Regional Board. In October 1997, Respondent submitted a Remedial Action Plan for Soil and Groundwater to the Regional Board. In March 1998, Respondent submitted Revision 1 to the Remedial Action Plan for Soil and Groundwater to the Regional Board. In approximately 2002, in response to a request from the Regional Board as part of its continued evaluation of Respondent's Remedial Action Plan for Soil and Groundwater, Respondent provided the Regional Board updated groundwater monitoring data.

## FINDINGS OF FACT

3.1 On December 27, 1996, Respondent submitted a Phase I Environmental Assessment pursuant to Health and Safety Code section 25200.14. On July 26, 2005, DTSC conducted an inspection of the Facility. Based on the inspection and the information available to DTSC, in a February 1, 2006 Inspection Report, DTSC identified Solid Waste Management Units (SWMUs) and/or Areas of Concern (AOCs) that either have released or may release hazardous waste or hazardous waste constituents into the environment. The DTSC identified SWMUs and/or AOCs and their approximate locations are noted on the figure attached hereto as Attachment 1.

3.2 In May 2006, DTSC contacted the Regional Board regarding the Facility. Based on the DTSC/Regional Board discussion, DTSC has agreed to take over as the oversight agency for the Work.

3.3 Based on the information available to DTSC, DTSC concludes that further investigation, as outlined in this Administrative Settlement Agreement, is needed to determine the nature and extent of any release of hazardous waste or hazardous waste constituents at the Facility.

3.4 The hazardous waste and hazardous waste constituents of potential concern at the Facility are pesticides, chlorinated solvents, petroleum hydrocarbons, sulfuric acid, polychlorinated biphenyls, and metals that include lead, arsenic, and mercury.

3.5 Hazardous wastes or hazardous waste constituents have migrated or may migrate from the Facility into the environment through pathways that may include surface water runoff, groundwater, airborne dust, sediment, and soil gas intrusion.

3.6 Releases from the Facility may migrate or may have migrated toward groundwater beneath the Facility and neighboring properties.

#### PROJECT COORDINATOR

4.1 Respondent's Project Coordinator shall be:

Anthony Koo  
100 Mococo Road  
Martinez, CA 94553-1340  
(925) 313-8221 (phone)  
(925) 228-7636 (fax)  
Anthony.koo@us.rhodia.com

DTSC's Project Coordinator shall be:

Nirupma Suryavanshi  
5796 Corporate Avenue  
Cypress, CA 90630  
(714) 484-53758 (phone)  
(714) 484-5392 (fax)  
nsuryava@dtsc.ca.gov

4.2 Each Project Coordinator shall be responsible for overseeing the implementation of this Administrative Settlement Agreement and for designating a person to act in his/her absence. All communications between Respondent and DTSC, and all documents, report approvals, and other correspondence concerning the activities performed pursuant to this Administrative Settlement Agreement shall be directed through the Project Coordinators. Each party may change its Project Coordinator with at least seven days prior written notice to the other party. If seven days advance prior written notice is not feasible, the parties shall promptly provide notice of any change in Project Coordinator.

#### WORK TO BE PERFORMED

5.1 Respondent agrees to perform the Work required in accordance with the applicable state and federal laws, their implementing regulations, and, where appropriate as determined by DTSC, the applicable DTSC and the United States Environmental Protection Agency guidance documents.

## FACILITY INVESTIGATION (FI)

6.1 Respondent previously submitted a Current Conditions Report to DTSC in April 2006. Within 90 days of the effective date of this Administrative Settlement Agreement, Respondent shall submit to DTSC an updated Current Conditions Report which includes newly acquired information. DTSC will review the updated Current Conditions Report and notify Respondent in writing of DTSC's approval or disapproval.

6.2 Within 90 days of the effective date of this Administrative Settlement Agreement, Respondent shall submit to DTSC a workplan for a Facility Investigation ("FI Workplan"). Respondent shall be able to rely upon and reference prior Facility investigation and characterization work done under Regional Board oversight as well as institutional knowledge of historic Facility operations in preparing the FI Workplan. The FI Workplan shall be developed in a manner consistent with the approach set forth in this Administrative Settlement Agreement.

6.3 As appropriate, Respondent shall use the Scope of Work for a Facility Investigation contained in Attachment 2 as guidance in preparing the FI Workplan. DTSC will review the FI Workplan and notify Respondent in writing of DTSC's approval or disapproval. If not previously submitted, simultaneous with submittal of the FI Workplan, Respondent shall submit to DTSC a Health and Safety Plan that is consistent with Attachment 3.

6.4 To the extent applicable, and not already done under the oversight of the Regional Board, the FI Workplan shall detail the methodology to: (1) gather data needed to make any decisions on interim measures/stabilization during the early phases of the RCRA Facility Investigation; (2) generally characterize soils beneath the Facility; (3) define the nature, degree and extent of groundwater contamination associated with Facility operations; (4) define the rate of movement and direction of contamination migration; (5) characterize the potential pathways of contaminant migration; (6) identify actual or potential human and/or ecological receptors; and (7) support development of the appropriate corrective measure for the Facility. A specific schedule for implementation of the activities shall be included in the FI Workplan.

6.5 As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, Respondent shall submit a FI Report to DTSC for approval in accordance with the DTSC-approved FI Workplan schedule. Respondent shall use the Scope of Work for a Facility Investigation contained in Attachment 2 as guidance in preparing the FI Report. If there is a phased investigation, separate FI Reports and a report that summarizes the findings from all phases of the FI must be submitted to DTSC. DTSC will review the FI Report(s) and notify Respondent in writing of DTSC's approval or disapproval.

6.6 Upon submission of the FI Report, at the request of DTSC, Respondent shall submit to DTSC for approval a Community Profile in accordance with Attachment 4. Based on the information provided in the Community Profile, DTSC may

conduct, or may instruct Respondent to conduct, a review to determine the appropriate level of public participation activities.

6.7 Following submittal of the final FI Report, DTSC may require Respondent to prepare a FI Summary Fact Sheet. If required, Respondent shall submit a FI Summary Fact Sheet to DTSC that summarizes the findings from all phases of the FI. The FI Summary Fact Sheet shall be submitted to DTSC in accordance with the schedule established by DTSC. DTSC will review the FI Summary Fact Sheet and notify Respondent in writing of DTSC's approval or disapproval, including any comments and/or modifications. When DTSC approves the FI Summary Fact Sheet, Respondent shall mail the approved FI Summary Fact Sheet to all individuals on a mailing list established pursuant to California Code Regulations, title 22, section 66271.9(c)(1)(D), within 15 days of receipt of both DTSC's written approval and the mailing list.

### INTERIM MEASURES (IM)

7.1 Interim measures shall be used whenever possible to control or abate immediate threats to human health and/or the environment, and to prevent and/or minimize the spread of contaminants while long-term corrective action alternatives are being evaluated.

7.2 Respondent previously submitted a Current Conditions Report to DTSC. Based on that submittal, no interim measures have been identified for implementation at the Facility as of the effective date of this Administrative Settlement Agreement.

7.3 If at any time, Respondent identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, Respondent shall notify the DTSC Project Coordinator orally within 48 hours of discovery and notify DTSC in writing within 10 days of discovery. The notification(s) required by the preceding sentence for the discovery of new releases of hazardous wastes and/or hazardous constituents do not apply to spills or releases associated with ongoing Facility operations which do not otherwise trigger release reporting under federal, state or local release reporting requirements. In its notification, Respondent shall summarize the findings, including the immediacy and magnitude of the potential threat to human health and/or the environment. Within 60 days of receiving DTSC's written request, Respondent shall submit to DTSC an IM Workplan for approval. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, the IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in Attachment 5. If DTSC determines that immediate action is required, the DTSC Project Coordinator may orally authorize the Respondent to act prior to DTSC's receipt of the IM Workplan.

7.4 If DTSC identifies an immediate or potential threat to human health and/or the environment, discovers new releases of hazardous waste and/or hazardous waste constituents, or discovers new solid waste management units not previously identified, DTSC will notify Respondent in writing. Within 60 days of receiving DTSC's written notification, Respondent shall submit to DTSC for approval an IM Workplan that identifies Interim Measures that will mitigate the threat. The IM Workplan shall include a schedule for submitting to DTSC an IM Operation and Maintenance Plan and IM Plans and Specifications. As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, the IM Workplan, IM Operation and Maintenance Plan, and IM Plans and Specifications shall be developed in a manner consistent with the Scope of Work for Interim Measures Implementation contained in Attachment 5. If DTSC determines that immediate action is required, DTSC Project Coordinator may orally authorize Respondent to act prior to receipt of the IM Workplan.

7.5 All IM Workplans shall ensure that the Interim Measures are designed to mitigate current or potential threats to human health and/or the environment, and should, to the extent practicable, be consistent with the objectives of, and contribute to the performance of, any remedy which may be required at the Facility.

7.6 Concurrent with the submission of an IM Workplan, and provided Respondent has not previously submitted it, Respondent shall submit to DTSC a Health and Safety Plan in accordance with the Scope of Work for a Health and Safety Plan contained in Attachment 3.

## RISK ASSESSMENT

8.1 Respondent previously prepared and submitted a risk assessment to the Regional Board as part of its 1997 Remedial Action Plan for Soil and Groundwater (ARCADIS Geraghty & Miller, 1998). As part of Respondent's work pursuant to Section 6.0, Respondent shall collect sufficient data to update the prior Risk Assessment as Respondent may be required to conduct a Risk Assessment to evaluate potential human health risk and ecological risk and to establish site-specific action levels and cleanup criteria.

8.2 Respondent shall submit to DTSC for approval a Risk Assessment Workplan within 60 days of the date DTSC determines a Risk Assessment is required, or within 60 days of Respondent obtaining DTSC concurrence to proceed with a Risk Assessment. Respondent shall submit to DTSC for approval a Risk Assessment Report in accordance with the DTSC-approved Risk Assessment Workplan schedule.

## CORRECTIVE MEASURES STUDY

9.1 Within 90 days of DTSC's approval of a Risk Assessment Report, Respondent shall submit a CMS Workplan to DTSC. As determined appropriate, Respondent's CMS Workplan submittals for soil and groundwater may proceed on separate schedules.

9.2 As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, Respondent shall utilize the Scope of Work for a Corrective Measures Study contained in Attachment 6 as guidance in preparing the CMS Workplan(s). Any CMS Workplan is subject to approval by DTSC.

9.3 As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, any CMS Workplan shall detail the methodology for developing and evaluating potential corrective measures to remedy contamination associated with current or historic Facility operations. The CMS Workplan(s) shall identify the potential corrective measures, including any innovative technologies that may be used for the containment, treatment, remediation, and/or disposal of contamination.

9.4 If necessary to evaluate a proposed corrective measure, Respondent shall prepare a treatability study. As appropriate, any CMS Workplan shall include, at a minimum, a summary of the proposed treatability study including a conceptual design, a schedule for submitting a treatability study workplan, or Respondent's justification for not proposing a treatability study.

9.5 Respondent shall submit a CMS Report to DTSC for approval in accordance with the DTSC-approved CMS Workplan schedule. If soil and groundwater work proceed on separate schedules, Respondent may submit separate CMS Reports to DTSC for approval. As appropriate and consistent with the approach set forth in this Administrative Settlement Agreement, Respondent shall utilize the Scope of Work for a Corrective Measures Study contained in Attachment 6 as guidance in preparing its CMS Report(s). DTSC will review the CMS Report(s) and notify Respondent in writing of DTSC's approval or disapproval.

#### SUBSEQUENT PHASES OF WORK

10.1 DTSC and Respondent shall amend this Administrative Settlement Agreement or negotiate another administrative settlement agreement to address additional work beyond the Work. If an amendment or another agreement is not reached within 120 days of the date the parties commence negotiations, DTSC reserves its right to issue an order or take other action as provided by law. DTSC's costs incurred in negotiating the subsequent amendment or agreement are considered costs incurred pursuant to this Administrative Settlement Agreement and are payable under this Administrative Settlement Agreement.

10.2 In any subsequent amendment or new agreement, as determined appropriate, Respondent may proceed on separate schedules for addressing soil and groundwater impacts associated with the Facility.

#### CALIFORNIA ENVIRONMENTAL QUALITY ACT

11.1 DTSC must comply with the California Environmental Quality Act (CEQA) insofar as activities required by this Administrative Settlement Agreement are projects subject to CEQA. Within 60 days of a written request by DTSC, Respondent shall



provide the information necessary to facilitate any CEQA analysis. DTSC will make an *initial determination regarding the applicability of CEQA*. If the activities are not exempt from CEQA, DTSC will conduct an Initial Study. Based on the results of the Initial Study, DTSC will determine if a Negative Declaration or an Environmental Impact Report (EIR) should be prepared. DTSC will prepare and process any such Negative Declaration. However, should DTSC determine that an EIR is necessary, such an EIR would be prepared under a separate agreement between DTSC and Respondent.

## DTSC APPROVAL

12.1 Respondent shall revise any workplan, report, specification, or schedule in accordance with DTSC's written comments. Respondent shall submit to DTSC any revised documents by the due date specified by DTSC. Revised submittals are subject to DTSC's approval or disapproval.

12.2 Upon receipt of DTSC's written approval, Respondent shall commence Work and implement any approved workplan in accordance with the schedule and provisions contained therein.

12.3 To the extent feasible, any deviations from the approved workplans must be approved by DTSC prior to implementation. Any deviations must be documented, including reasons for the deviations, and must be reported in the applicable report.

12.4 Any DTSC-approved workplan, report, specification, or schedule required under this Administrative Settlement Agreement shall be deemed incorporated into this Administrative Settlement Agreement.

12.5 Verbal advice, suggestions, or comments given by DTSC representatives will not constitute an official approval or decision until such time as the verbal advice, suggestions or comments are confirmed in writing.

## SUBMITTALS

13.1 Beginning with the sixth full month following the effective date of this Administrative Settlement Agreement, Respondent shall provide DTSC with semi annual progress reports of the activities conducted pursuant to this Administrative Settlement Agreement, except that groundwater monitoring reports will be submitted quarterly unless otherwise agreed to by DTSC. Progress reports are due on the first day of the month following the close of each reporting period. The progress reports shall be consistent with the Scope of Work for Progress Reports contained in Attachment 7. DTSC may adjust the frequency of progress reporting to be consistent with Facility-specific activities.

13.2 Any report or workplan submitted by Respondent pursuant to this Administrative Settlement Agreement shall be signed and certified by the project coordinator, a responsible corporate officer, or a duly authorized representative.

13.3 The certification required by paragraph 14.2 above, shall be in the following form:

I certify that the information contained in or accompanying this submittal is true, accurate, and complete. As to those portions of this submittal for which I cannot personally verify the accuracy, I certify that this submittal and all attachments were prepared at my direction in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

13.4 Respondent shall provide two copies of all documents, including but not limited to, workplans, reports, and correspondence. Submittals specifically exempted from this copy requirement are all progress reports and correspondence of less than 15 pages, of which one copy is required.

13.5 At Respondent's written request, and consistent with applicable laws, DTSC shall maintain all company confidential and proprietary material and information confidential, and shall not disclose it to third parties without Respondent's prior written consent except as otherwise required by the Public Records Act or by order of a court. In the event DTSC is required to disclose Respondent's confidential information pursuant to the Public Records Act or by order of a court, DTSC shall provide Respondent with advance written notice of DTSC's disclosure of Respondent's confidential information consistent with Section 66260.2 of Title 22 of the California Code of Regulations.

13.6 Unless otherwise specified, all reports, correspondence, approvals, disapprovals, notices, or other submissions relating to this Administrative Settlement Agreement shall be in writing and shall be sent to the current Project Coordinators.

13.7 Any submittals required by this Administrative Settlement Agreement may be combined as deemed appropriate by DTSC and Respondent.

#### PROPOSED CONTRACTOR/CONSULTANT

14.1 All Work shall be under the direction and supervision of a professional engineer or registered geologist, registered in California, with expertise in hazardous waste site cleanup. Respondent's contractor or consultant shall have the technical expertise sufficient to fulfill his or her responsibilities.

14.2 Respondent has retained Haley & Aldrich, Inc. to perform the Work. The information on the project manager for Haley & Aldrich, Inc. is as follows:

Alistaire B. Callender, Ph.D.  
Haley & Aldrich, Inc.  
500 South Kraemer Boulevard, Suite 370  
Brea, CA 92821  
(714) 984-2126 (phone)  
(714) 985-3433 (fax)  
acallender@haleyaldrich.com

14.3 Respondent shall notify the DTSC Project Coordinator in writing within 14 days of a change in the lead contractor or consultant retained by Respondent to perform the Work. At the time of notification, Respondent shall provide the name, title, and qualifications of the professional engineer or registered geologist and of any contractors or consultants to be used in carrying out the terms of this Administrative Settlement Agreement.

#### ADDITIONAL WORK

15.1 DTSC may determine that certain tasks, including investigatory work, engineering evaluation, or procedures/methodology modifications, are necessary in addition to, or in lieu of, the tasks and deliverables included in any part of DTSC-approved workplans. DTSC shall request in writing that Respondent perform the additional work and shall specify the basis and reasons for DTSC's determination that the additional work is necessary. Within 14 days after the receipt of such determination, Respondent may confer with DTSC to discuss the additional work DTSC has requested. If required by DTSC, Respondent shall submit to DTSC a workplan for the additional work. Such workplan shall be submitted to DTSC within 30 days of receipt of DTSC's determination or according to an alternate schedule established by DTSC. Upon approval of a workplan, Respondent shall implement it in accordance with the provisions and schedule contained therein. The need for, and disputes concerning, additional work are subject to the dispute resolution procedures specified in this Administrative Settlement Agreement.

15.2 Respondent may determine that certain tasks, including investigatory work, engineering evaluation, or procedures/methodology modifications, are necessary, warranted or appropriate, and should be performed in addition to, or in lieu of, the tasks and deliverables included in any part of a DTSC-approved workplans or as required by this Administrative Settlement Agreement. Respondent shall provide to DTSC for approval a workplan for any such additional tasks and shall implement the additional tasks in accordance with the provisions and schedule as approved by DTSC.

#### QUALITY ASSURANCE

16.1 All sampling and analyses performed by Respondent under this Administrative Settlement Agreement shall follow applicable DTSC and EPA guidance

for sampling and analysis. Workplans shall contain quality assurance/quality control and chain of custody procedures for all sampling, monitoring, and analytical activities.

16.2 The names, addresses, and telephone numbers of the California State certified analytical laboratories Respondent proposes to use must be specified in the applicable workplans.

#### SAMPLING AND DATA/DOCUMENT AVAILABILITY

17.1 Respondent shall submit to DTSC upon request the results of all sampling and/or tests or other data generated by its employees, agents, consultants, or contractors pursuant to this Administrative Settlement Agreement.

17.2 Respondent shall notify DTSC in writing at least seven days prior to beginning each separate phase of field work approved under any workplan required by this Administrative Settlement Agreement. If Respondent believes it must commence emergency field activities without delay, Respondent may seek emergency telephone authorization from DTSC Project Coordinator or, if the Project Coordinator is unavailable, his/her Branch Chief, to commence such activities immediately.

17.3 At the request of DTSC, Respondent shall provide or allow DTSC or its authorized representative to take split or duplicate samples of all samples collected by Respondent pursuant to this Administrative Settlement Agreement. Similarly, at the request of Respondent, DTSC shall allow Respondent or its authorized representatives to take split or duplicate samples of all samples collected by DTSC under this Administrative Settlement Agreement.

#### ACCESS

18.1 Subject to the Facility's security and safety procedures, Respondent agrees to provide DTSC and its representatives access at all reasonable times to the Facility and shall permit such persons to inspect and copy all records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Administrative Settlement Agreement and that are within the possession or under the control of Respondent or its contractors or consultants.

18.2 To the extent that work required by this Administrative Settlement Agreement must be done beyond the Facility's boundary, Respondent shall use its best efforts to obtain access agreements necessary to complete the work in a timely manner.

#### RECORD PRESERVATION

19.1 Respondent shall retain, during the pendency of this Administrative Settlement Agreement and for a minimum of six years after its termination, all non-identical data, records, and documents that relate in any way to the Work.

19.2 If Respondent retains or employs any agent, consultant, or contractor for the purpose of carrying out the terms of this Administrative Settlement Agreement, Respondent will require any such agent, consultant, or contractor to provide Respondent a copy of all documents produced pursuant to this Administrative Settlement Agreement.

19.3 All documents required to be retained per Section 19.1 of this Administrative Settlement Agreement shall be stored in a central location at the Facility, which shall include, as appropriate, electronic storage, or at a location otherwise agreed to by the parties, to afford easy access by DTSC and its representatives.

19.4 The requirements of records preservation in these Sections 19.1 – 19.4 do not pertain to or apply to any attorney-client and/or attorney work product documents.

## DISPUTE RESOLUTION

20.1 The parties agree to use their best efforts to resolve all disputes informally. The parties agree that the procedures contained in this Section are the procedures for informally resolving disputes arising under this Administrative Settlement Agreement. If Respondent fails to follow the procedures contained in this Section, it shall have waived its right to further consideration of the disputed issue.

20.2 If Respondent disagrees with any written decision by DTSC pursuant to this Administrative Settlement Agreement, Respondent's Project Coordinator shall orally notify DTSC's Project Coordinator of the dispute. The Project Coordinators shall attempt to resolve the dispute informally.

20.3 If the Project Coordinators cannot resolve the dispute informally, Respondent may pursue the matter formally by placing its objection in writing. Respondent's written objection must be forwarded to Branch Chief, Tiered Permitting Corrective Action Branch, Hazardous Waste Management Program, Department of Toxic Substances Control, with a copy to DTSC's Project Coordinator. The written objection must be mailed to the Branch Chief within 14 days of the date the Project Coordinators determine they cannot resolve the matter informally. Respondent's written objection must set forth the specific points of the dispute and the basis for Respondent's position.

20.4 DTSC and Respondent shall have 14 days from DTSC's receipt of Respondent's written objection to resolve the dispute through formal discussions. This period may be extended by DTSC for good cause. During such period, Respondent may meet or confer with DTSC to discuss the dispute.

20.5 After the formal discussion period, DTSC will provide Respondent with its written decision on the dispute. DTSC's written decision will reflect any agreements reached during the formal discussion period and be signed by the Branch Chief or his/her designee.

20.6 During the pendency of all dispute resolution procedures set forth above, the time periods for completion of work required under this Administrative Settlement Agreement that are affected by such dispute shall be extended for a period of time not to exceed the actual time taken to resolve the dispute. The existence of a dispute shall not excuse, toll or suspend any other compliance obligation or deadline required pursuant to this Administrative Settlement Agreement.

20.7 Notwithstanding the foregoing in Sections 20.1-20.6, Respondent reserves its rights, remedies and defenses available under applicable laws and regulations, including its right to an administrative hearing and its right to seek judicial review, except as otherwise provided in Section 1.8. During the pendency of any procedures pursuant to this Section 20.7, the time periods for completion of work required under this Administrative Settlement Agreement that are affected by such procedure shall be extended for a period of time not to exceed the actual time taken to finally resolve the matter. Procedures pursuant to this Section 20.7 shall not excuse, toll or suspend any other compliance obligation or deadline required pursuant to this Administrative Settlement Agreement.

#### RESERVATION OF RIGHTS

21.1 It is the intent of DTSC and the Respondent that this Administrative Settlement Agreement constitutes an administrative settlement within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. section 9613(f)(3)(B), and is intended to resolve the liability of Respondent to DTSC at the Facility, including liability for the purposes of contribution protection provided by CERCLA section 9613(f), only for those costs actually paid by Respondent to DTSC and only for Work actually performed by Respondent that has been approved by DTSC and implemented in accordance with the terms of this Administrative Settlement Agreement.

21.2 DTSC reserves all of its statutory and regulatory powers, authorities, rights and remedies, which may pertain to Respondent's failure to comply with any of the requirements of this Administrative Settlement Agreement. Respondent reserves all of its statutory and regulatory rights, defenses and remedies, as they may arise under this Administrative Settlement Agreement. Except as provided in Section 21.1 this Administrative Settlement Agreement shall not be construed as a covenant not to sue, release, waiver, or limitation on any powers, authorities, rights, or remedies, civil or criminal, that DTSC or Respondent may have under any laws, regulations or common law.

21.3 DTSC reserves the right to disapprove of Work performed by Respondent pursuant to this Administrative Settlement Agreement and to request that Respondent perform additional tasks. DTSC shall not unreasonably withhold approval of Work performed by Respondent pursuant to this Administrative Settlement Agreement and shall not unreasonably request that Respondent perform additional tasks.

21.4 Provided that Respondent does not perform any portion of the Work covered by this Administrative Settlement Agreement after reasonable notification from DTSC of such non-performance, DTSC reserves the right to perform such portion of the Work. DTSC will notify Respondent in writing as soon as practicable regarding the decision to perform any portion of the Work described in this Section and shall provide Respondent the opportunity to perform such portion of the Work first. DTSC reserves its right to seek reimbursement from Respondent for costs incurred by the State of California with respect to such actions.

21.5 If DTSC determines that activities in compliance or noncompliance with this Administrative Settlement Agreement have caused or may cause a release of hazardous waste and/or hazardous waste constituents, or a threat to human health and/or the environment, or that Respondent is not capable of undertaking any of the Work required, DTSC may order Respondent to stop further implementation of this Administrative Settlement Agreement for such period of times as DTSC determines may be needed to abate any such release or threat and/or to undertake any action which DTSC determines is necessary to abate such release or threat. The deadlines for any actions required of Respondent under this Administrative Settlement Agreement affected by the order to stop work shall be extended to take into account DTSC's actions.

21.6 This Administrative Settlement Agreement is not intended to be nor shall it be construed to be a permit. This Administrative Settlement Agreement is not a substitute for, and does not preclude DTSC from requiring, any hazardous waste facility permit, post closure permit, closure plan or post closure plan if such a permit or plan is required by applicable laws or regulations. Nothing in this Administrative Settlement Agreement is intended to infer that the Facility will require a hazardous waste facility permit, post closure permit, closure plan or post closure plan. The parties acknowledge and agree that DTSC's approval of any workplan, plan, and/or specification does not constitute a warranty or representation that the workplans, plans, and/or specifications will achieve the required cleanup or performance standards. Compliance by Respondent with the terms of this Administrative Settlement Agreement shall not relieve Respondent of its obligations to comply with the Health and Safety Code or any other applicable local, state, or federal law or regulation.

#### OTHER CLAIMS

22.1 Except as otherwise provided in this Administrative Settlement Agreement, nothing in this Administrative Settlement Agreement shall constitute or be construed as a release by DTSC or Respondent from any claim, cause of action, or demand in law or equity against any person, firm partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken or migrating from the Facility.

## COMPLIANCE WITH WASTE DISCHARGE REQUIREMENTS

23.1 Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

## OTHER APPLICABLE LAWS

24.1 All actions required by this Administrative Settlement Agreement shall be conducted in accordance with the requirements of all local, state, and federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

## REIMBURSEMENT OF DTSC'S COSTS

25.1 Respondent shall pay DTSC's costs incurred in the implementation of this Administrative Settlement Agreement.

25.2 An estimate of DTSC's costs is attached as Exhibit A showing the amount of \$46,584.00. It is understood by the parties that this amount is only a cost estimate for the activities shown on Exhibit A and it may differ from the actual costs incurred by DTSC in overseeing these activities or in implementing this Administrative Settlement Agreement. DTSC will provide additional costs estimates to Respondent as the work progresses under the Administrative Settlement Agreement.

25.3 Respondent shall make an advance payment to DTSC in the amount of \$10,000.00 within 30 days of the effective date of this Administrative Settlement Agreement. If the advance payment exceeds DTSC's costs, DTSC will refund the balance within 120 days after the execution of the Acknowledgment of Satisfaction pursuant to Section 27.1 of this Administrative Settlement Agreement.

25.4 DTSC will provide Respondent with a billing statement at least quarterly, which will include the name(s) of the employee(s), identification of the activities, the amount of time spent on each activity, and the hourly rate charged. DTSC's billing procedures and billing statements will comply with all applicable laws and regulations in effect throughout the duration of this Administrative Settlement Agreement. If Respondent does not pay an invoice within 60 days of the date of the billing statement, the amount is subject to interest as provided by Health and Safety Code section 25360.1.

25.5 DTSC will retain all costs associated with the Work performed under this Administrative Settlement Agreement as required by state law. DTSC will make all documents that support the DTSC's costs determination available for inspection upon requested, as provided by the Public Records Act.

25.6 Any dispute concerning DTSC's costs incurred pursuant to this Administrative Settlement Agreement is subject to the Dispute Resolution provision of this Administrative Settlement Agreement and/or the dispute resolution procedures as



established pursuant to Health and Safety Code section 25269.2 or other applicable Health and Safety Code provisions. DTSC reserves the right to recover unpaid costs under applicable state and federal laws.

25.7 All payments shall be made within 30 days of the date of the billing statement by check payable to the Department of Toxic Substances Control and shall be sent to:

Accounting Unit  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

All checks shall reference the name of the Facility, the Respondent's name and address, and the docket number of this Administrative Settlement Agreement. Copies of all check and letters transmitting such checks shall be sent simultaneously to DTSC's Project Coordinator.

#### MODIFICATION

26.1 This Administrative Settlement Agreement may be modified by mutual agreement of the parties. Any agreed modification shall be in writing, shall be signed by both parties, shall have as its effective date the date on which it is signed by all the parties, and shall be deemed incorporated into this Administrative Settlement Agreement.

26.2 Any requests for revision of an approved workplan requirement must be in writing. Such requests must be timely and provide justification for any proposed workplan revision. DTSC has no obligation to approve such requests, but if it does so, such approval will be in writing and signed by the Branch Chief, Tiered Permitting Corrective Action Branch, Hazardous Waste Management Program, Department of Toxic Substances Control, or his or her designee. Any approved workplan revision shall be incorporated by reference into this Administrative Settlement Agreement.

#### TERMINATION AND SATISFACTION

27.1 The provisions of this Administrative Settlement Agreement shall be deemed satisfied upon the execution by both parties of an Acknowledgment of Satisfaction (Acknowledgment). DTSC will prepare the Acknowledgment for Respondent's signature. The Acknowledgment will specify that Respondent has demonstrated to the satisfaction of DTSC that the terms of this Administrative Settlement Agreement including payment of DTSC's cost have been satisfactorily completed. The Acknowledgment will affirm Respondent's continuing obligation to preserve records as required by the Administrative Settlement Agreement after the rest of the Administrative Settlement Agreement is satisfactorily completed.

## EFFECTIVE DATE

28.1 The effective date of this Administrative Settlement Agreement shall be on the date on which this Administrative Settlement Agreement is signed by the last of the parties to the agreement. Except as otherwise specified, "days" means calendar days. If a due date under this Administrative Settlement Agreement falls on a weekend or legal federal or State of California holiday, the due date shall be the next following business day.

## SIGNATORIES

29.1 Each undersigned representative certified that he or she is fully authorized to enter into this Administrative Settlement Agreement.

DATE: 11/9/07

BY: Original signed by James Harton  
James Harton, President, Rhodia, Inc.

DATE: 11/15/07

BY: Original signed by Stephen W. Lavinger  
Stephen W. Lavinger, Chief  
Tiered Permitting Corrective Action Branch  
Hazardous Waste Management Program  
Department of Toxic Substances Control